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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,560	02/09/2001	Marianne Harboe	58982.000002	6162

7590 07/10/2003
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EXAMINER

STEADMAN, DAVID J

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 07/10/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/779,560

Applicant(s)

HARBOE, MARIANNE

Examiner

David J. Steadman

Art Unit

1652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 19 June 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-6,9-18,29-31,35,36 and 39-41.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

ADVISORY ACTION

[1] Claims 1-6, 9-18, 29-31, 35, 36, and 39-41 are pending in the application.

[2] Claims 1-6, 9-18, 29-31, 35, 36, and 39-41 stand finally rejected.

[3] No claim is in condition for allowance.

[4] The request for reconsideration in the after final amendment of Paper No. 16, filed June 19, 2003, is acknowledged. The amendment does not place the claims in condition for allowance because the amendment would require further consideration of the claims as a new rejection under 35 USC 112, second paragraph, would be required (see item 5 below). See MPEP 714.13 regarding non-entry of after final amendments.

[5] A new rejection under 35 USC 112, second paragraph, would be required as claims 1, 4, and 5 of the after final amendment of Paper No. 13 are confusing. The claims are confusing because it is unclear as to the scope of undesired enzymatic side activities as recited in claims 1, 4, and 5. Claims 4 and 5 recite "at least one undesired enzymatic activity". It is unclear as to whether this term refers to glucoamylase or to other undesired enzymatic activities. As such, the claims require further consideration and at least one new rejection.

[6] The rejection of claims 1-6, 9-18, 29-31, 35, 36, and 39-41 under 35 U.S.C. 103(a) as being unpatentable over Laustsen (US Patent 6,080,564) in view of Larsen (WO 95/29999), Heinsohn (US Patent 5,215,908), and Ward et al. (*Biotechnol* 8:435-440) is maintained for the reasons of record and the reasons stated below. The rejection was fully explained in previous Office actions.

[7] Applicant argues (at pages 6 and 7 of Paper No. 13) the combined references do not teach or suggest the claimed invention nor provide motivation for practicing the claimed invention. Applicant's arguments have been fully considered. However, in view of the non-entry of the amendment, the rejections are maintained for the reasons of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Steadman, whose telephone number is (703) 308-3934. The Examiner can normally be reached Monday-Thursday from 6:30 am to 5:00 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (703) 308-

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3804. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Art Unit receptionist whose telephone number is (703) 308-0196.

David J. Steadman, Ph.D.
Patent Examiner
Art Unit 1652



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